

REMARKS

This amendment is in response to the Office Action of December 21, 2006 in which claims 1-22 were examined.

Claims 9 and 21 have been amended to remove the “means” language while new claims 23-24 are the same as original claims 9 and 12. Separate paragraphs have been introduced at appropriate places in the independent claims in accord with U.S. practice and the preambles thereof have been shortened.

Regarding the statutory subject matter rejection, the wording of claims 19 and 20 has been amended without prejudice in order to make it clearer that the claim is statutory. Withdrawal of the Section 101 rejection is requested.

All the pending claims 1 – 22 are rejected under 35 U.S.C. § 103 (a) as being unpatentably obvious over a combination of US 2002/0097880 (Kirkeby) in view of US 2002/0154783 (Fincham) and further in view of US 2003/0219130 (Baumgarte et al).

US 2002/0097880 (Kirkeby) is a previous application from the same inventor relating to stereo widening network and is acknowledged in the background of the invention as the document EP 1194007. The Examiner cites correctly those features of the present claims, which are common with US 2002/0097880.

US 2002/0154783 (Fincham) discloses a sound reproduction system particularly designed for surround sound systems. The system is particularly meant for creating a low-frequency (bass) boost e.g. in a situation when 5.1 surround format audio source is played on a 7.1 surround system, whereby identical monaural signals are fed to the “missing” two (closely situated) speakers, which may cause various anomalies in the sound image. Thus, a sound processor is used for deriving a cancellation signal from the difference between a left-right pair of channels. The cancellation signal is further processed and added to the left channel, and in opposite

polarity, to the right channel, thereby enhancing the stability of the stereo sound image.

The Examiner alleges that a combination of US 2002/0097880 (Kirkeby) and US 2002/0154783 (Fincham) teaches a skilled person all other features of the independent claims, but not that of forming a separate monophonic signal path. According to the Examiner, this is derivable from US 2003/0219130 (Baumgarte et al), which discloses the basic principles of Binaural Cue Coding (BCC).

The reasoning of the Examiner is not convincing. Fincham relates to sound reproduction through speakers, not to providing the sound for headphones. Furthermore, Fincham does not teach to process the monophonic signal component of a stereo signal, which is the basic idea underlying the present invention. Thus, a skilled person has no motivation to even combine Kirkeby and Fincham. Moreover, in the BCC disclosed by Baumgarte, the monophonic signal (and the corresponding side information) is formed in the encoding phase to create a highly compressed binaural signal; the monophonic signal of Baumgarte does not relate to using it for equalizing the frequency spectrum of the monophonic signal component of the left and right output signals of a stereo audio (i.e. in the decoding phase) and there is no hint of such in any of the three applied references.

Thus, there seems to be no reason for amending the subject matter of the claims due to prior art and withdrawal of the obviousness rejection is requested.

Finally, it is noted that the primary reference (US 20020097880) is a publication of an earlier application by the inventor hereof published more than one year prior to the U.S. filing date hereof but less than one year prior to the priority date hereof under the Paris Convention. It is recognized that domestic law (last clause of 35 U.S.C. 119(a)) purports to make this publication effective as prior art under 35 U.S.C. 102(b)/103, but it is not clear whether this domestic law is consistent with the Paris Convention. Thus, by presenting the above arguments in response to the Examiner's rejection, applicant wishes to make clear that applicant

does not thereby waive any right to later seek a determination as to whether, in such a situation, the United States domestic legislation controls or whether the treaty controls.

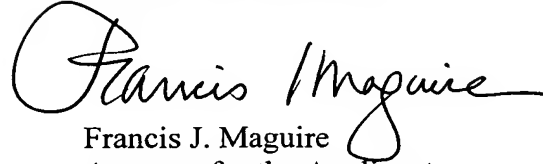
The appropriate fee for the extra claims is enclosed, but if the amount is for some reason incorrect the Commissioner is authorized to deduct any shortfall from or add any excess to our Deposit Account No. 23-0442. If the fee is missing entirely, the Commissioner is likewise authorized to deduct the appropriate amount from our Deposit Account No. 23-0442.

If there is no petition for extension of time submitted herewith then it is believed that there is no need for any such petition for extension of time. However, if there is a petition due, please consider this paper to include such a petition and the Commissioner is authorized to deduct the appropriate extension of time fee from our Deposit Account No. 23-0442.

If there is a petition for extension of time with fee submitted herewith then it is believed that the appropriate extension period has been applied for and the appropriate fee submitted. However, if there is a petition for a longer period due with a higher fee due than that submitted, or if we have for some reason not submitted any fee, please consider this paper to include such a petition for the correct extension period and the Commissioner is authorized to deduct the appropriate extension of time fee from our Deposit Account No. 23-0442.

The objections and rejections of the office action of December 21, 2006, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 1-24 to issue is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, reading "Francis J. Maguire". The signature is written in a cursive style with a large, looping initial "F".

Francis J. Maguire  
Attorney for the Applicant  
Registration No. 31,391

FJM/lk  
WARE, FRESSOLA, VAN DER SLUYS  
& ADOLPHSON LLP  
755 Main Street, P.O. Box 224  
Monroe, Connecticut 06468  
(203) 261-1234